COUNCIL ON HIGHER EDUCATION

HIGHER EDUCATION AND THE SUBSTANTIATION OF DEMOCRACY IN SOUTH AFRICA

Report on the Research Seminar of the HEIAAF Task Team

Held at Kopanong Hotel and Conference Centre, Benoni, Johannesburg
Monday 16 April – Tuesday 17 April 2007

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1. BACKGROUND AND PURPOSE OF THE RESEARCH SEMINAR

The Task Team on Government Involvement in, and Regulation of, Higher Education, Institutional Autonomy and Academic Freedom (HEIAAF) was established in 2005 by the Council on Higher Education (CHE) to investigate independently the past decade of regulation of South African higher education by government and other agencies, and to promote debate on conceptions of autonomy, academic freedom and accountability in general and in the context of higher education transformation.

The Task Team was established amid concerns and claims by some that the nature of government involvement in South African higher education was in danger of moving from 'state steering' to 'state interference'. The CHE believed that it was important to undertake a sober and rigorous investigation of the issues, so giving effect to the CHE's responsibilities to advise the Minister of Education, to monitor and evaluate higher education, and to contribute to higher education development.

From the outset, the Task Team was of the view that the process of arriving at its report and recommendations to the CHE would be as important as the product itself. This is the more important as the Task Team conceived of the ultimate product in two ways. Firstly, the Task Team would produce a report to the CHE which would then, in its wisdom, decide how to use this report for its own purposes. Secondly, the Task Team envisaged that openness and publicity of its wide-ranging consultation with stakeholders, key individuals and experts would afford sustained deliberation. Thus, the process of investigation was designed in order to:

- stimulate research and writing;
- build shared understandings of institutional autonomy, academic freedom and accountability; and
- develop consensus, as far as possible, on the nature and modes of government involvement in higher education transformation, and on the relationships between government and other regulatory bodies, and higher education institutions.

The Task Team employed five key mechanisms to achieve its objectives. Firstly, it completed an overview of the recent debates in South African higher education on academic freedom, institutional autonomy and public accountability. Secondly, the Task Team invited various stakeholders (stakeholder organisations, higher education institutions, institutional stakeholder formations and individuals) to make submissions to the Task Team on issues within the scope of the HEIAAF enquiry. As a means of informing and stimulating wider debate, the report and submissions were all published on the CHE website. Thirdly, the consultative process with representative groups was supplemented with interviews conducted with selected individuals and groups having special knowledge, experience, perspectives or affiliations central or relevant to the Task Team's enquiry. On the basis of this collective work, the Task Team then formulated a number of topics and research briefs for which it commissioned experts in the field. The intention was that the individual research reports would afford complementary and multi-faceted perspectives on the core issues of the HEIAAF enquiry, thus allowing the sum of the individual projects to be greater than their parts. As a further step, the Task Team organised six regional fora for engaging institutional and other stakeholders in the debate; these were held in Pretoria, Bloemfontein, Cape Town, Johannesburg, Durban and Port Elizabeth between March and June 2006.

The HEIAAF research seminar held from Monday 16 April – Tuesday 17 April 2007, in Johannesburg, represented another step in the wide-ranging investigation of the Task Team. The purpose of the research seminar was to engage critically on the many important issues that emanated from the four research reports commissioned earlier. In contrast to the regional fora, the forty-two participants of the research seminar were invited not as representatives of specific stakeholder groups, but for their respective expertise (see: Attendance Register, appended to this report).

The following table provides an overview of the report titles, their authors, and the presenters and discussants of the reports at the seminar.

Title of Research Report and Author(s)	Presenter	Discussant
Academic Freedom, Institutional Autonomy and Public Accountability in Higher Education: A Framework for Analysis of the 'State-Sector' Relationship in a Democratic South Africa, by Ruth Jonathan	Emeritus Prof Ruth Jonathan	Dr Nico Cloete
Academic Freedom, Institutional Autonomy and the Corprorratised University in Contemporary South Africa, by Kristina Bentley, Adam Habib and Sean Morrow	Dr Seán Morrow	Prof Ahmed Bawa
Eternal (and Internal) Tensions? Conceptualising Public Accountability in South African Higher Education, by Steven Friedman and Omano Edigheji	Prof Steven Friedman	Prof 'Jimi Adesina
Autonomy as a Social Pact, by Andre du Toit	Emeritus Prof André du Toit	Prof Deborah Posel

The four research reports presented, discussed and debated at the seminar are available to download from the CHE web site (http://www.che.ac.za), with a limited number available in printed format from the CHE.

2. PROCEEDINGS OF THE RESEARCH SEMINAR

The Chair of the HEIAAF Task Team, Dr Khotso Mokhele, welcomed all participants on behalf of the Chair of the Council on Higher Education, Mr Saki Macozoma (obliged to tender his apologies), and of the HEIAAF Task Team. For the benefit of the invited participants, the Chair outlined the genesis of the Task Team, the process of the investigation to date, and the place of this seminar in the enquiry as a whole.

The Convenor of the Task Team, Prof Saleem Badat, outlined the remaining work of the Task Team, particularly the production of its independent research report which would be taken to the CHE's Consultative Conference in November 2007. He noted that the initial terms of reference of the Task Team included that the HEIAAF process should seek to develop consensus around the concepts of academic freedom, institutional autonomy and public accountability. Yet, the Task Team was content with an interpretation of its terms of reference which would first seek to develop certain propositions on the concepts within the given context, recognising that it might be possible to develop substantive consensus on some, but not all, propositions.

After sketching the relation between the Task Team and the functions of the CHE, Dr Mala Singh, Chief Executive Officer of the CHE, outlined some of the Council's expectations of the outcomes of the HEIAAF process. Key among them was the hope that any conceptual and strategic understandings arrived at would provide a basis for the CHE to further interrogate issues around these notions and their implications for governance in South African higher education in general, as well as specific aspects related to the role of government, the regulatory functions of implementing agencies, and the self-regulatory claims of institutions. The Task Team enquiry represented a platform *inter alia* for the development of recommendations which the CHE would consider in relation to its mandate of giving proactive advice to the Minister of Education. So far, it seemed that the debates were likely to have substantive implications. Furthermore, the CHE hoped that the plurality of modalities of consultation and publicity of the HEIAAF process would mobilise stakeholders to participate continuously in the debate on the ways higher education could contribute to the substantiation of democracy in South Africa.

The seminar extended over two days and was conducted in four main sessions. The first session considered the research report prepared by Emeritus Prof Ruth Jonathan, with Dr Nico Cloete as discussant. In the second session, Dr Sean Morrow presented the substance of the research report written by Dr Kristina Bentley, Prof Adam Habib and Dr Seán Morrow, with Prof Ahmed Bawa acting as discussant. The research report by Prof Steven Friedman and Dr Omano Edigheji was considered in the last session of the first day, with Prof 'Jimi Adesina in the role of discussant. On the second day, Emeritus Prof André du Toit presented his research report, and Prof Deborah Posel acted as discussant. The seminar was concluded in a final session, where invited commentator Prof Joe Muller summarised the key themes and issues arising from the proceedings. The lion's share of time in each of the 1½-hour-long sessions was allocated to deliberations involving the plenary.

The following section deals with the major aspects of the substance of the discussions. It does not attempt to represent all contributions nor does it profess to exhaust all cross-cutting topics that emerged. Rather, it is a reflective synthesis structured as major themes and topics gleaned from the seminar's presentations, discussions and contributions (occasionally also referring to the actual research reports which informed the seminar).

3. MAJOR THEMES AND CROSS-CUTTING TOPICS

3.1 Re-conceptualising Academic Freedom, Institutional Autonomy and Public Accountability

Given the nature of the HEIAAF enquiry, the seminar did not discuss pre-formulated 'definitions' of academic freedom, institutional autonomy and public accountability. Rather, it considered many potential ways of how these terms might be conceptualised in the context of contemporary South African higher education. By way of introduction, this section outlines in broad brush ideas involved in the re-conceptualisation exercise.

Conceptualising academic freedom, institutional autonomy and public accountability in contemporary South Africa involves firstly an acknowledgement of the context. Consideration was given in the seminar to globalisation, and the international trend towards commodification of higher education, as developments which pose a new set of challenges to academic freedom.

The post-colonial experiences of higher education in Africa – some troubling aspects, as well as positive examples and developments - were also discussed as a highly relevant context.

However, seminar participants agreed that it was primarily the advent of democracy in South Africa in 1994 which prompted and necessitated a re-examination of academic freedom and the relationship between society, the state and higher education. Under apartheid, the liberal position of the 'open universities' had essentially been that 'government's most useful contribution to the academy was to leave it alone' (Friedman and Edigheji 2006: 2). This was most influentially articulated in the TB Davie formula which asserted, in opposition to the apartheid state, that academic freedom must mean the 'freedom from external interference in (a) who shall teach, (b) what we teach, (c) how we teach, and (d) whom we teach'. In contemporary South Africa, however, government operates as the legitimate representative of a transforming society. Seminar participants agreed that this must have implications for the way in which academic freedom is conceived. The new dispensation is based on a constitution which explicitly protects academic freedom. The Constitution commits government to 'establish a society based on democratic values, social justice and fundamental human rights; lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by the law; improve the quality of life of all citizens and free the potential of each person; and build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations' (South African Constitution 1996: Preamble). It was therefore acknowledged to be in the interests of constructive co-operative relationships between government, regulatory bodies and higher education institutions – and in the broader interests of society – that a revitalised conception of academic freedom match the rights, duties and accountability dimensions of academic freedom, and formulate the distinctiveness of academic freedom and institutional autonomy, and/or their interlinkage.

Following from this view, the notion of 'public accountability' was generally seen to be too limited. 'Jimi Adesina proposed that accountability needed to be broadened beyond mere public accountability (involving primarily answerability for the use of public funds) to social accountability. The latter recognises that universities are situated within communities and should serve their communities as 'knowledge commons'. Ruth Jonathan elaborated extensively in her report and in her presentation on a conception of accountability as democratic rather than merely public. Steven Friedman outlined different routes to accountability and variant forms of accountability. André du Toit referred to systems of accountability which operated both internally to the scholarly profession (e.g. peer review and academic rule) and externally to state and society. Discussions around these notions are expanded on elsewhere in this report. However, Friedman expressed the gist of the discussions when he noted that, while higher education institutions must be shielded from undue populist pressures in a democracy, higher education must be accountable to society – including its range of 'diverse publics' – in its core functions.

On institutional autonomy, seminar participants took the general view that this involves the universities' right to academic self-government in accordance with academic values. Ideally, institutional autonomy acts as a safeguard to scholarly freedom and academic rule as elements of academic freedom in the internal sphere of the university; a defence of the core values of the academy in the external sphere; and mediates relations between universities, state and society so that the public good and societal and economic goals find an appropriate response in higher education. An important distinction used in the seminar was one formulated by André du Toit as being between a 'substantive conception of autonomy' where institutional autonomy effectively acts as a 'capstone' to academic freedom, and 'functional autonomy' which essentially serves to remove university management from the scope of public scrutiny. The argument was made that

autonomy which was merely functional could undermine both academic rule and scholarly freedom within the university.

Academic freedom therefore emerged in the discussion as a concept more complex than the TB Davie formula (developed in its own particular context in the 1950s) had posited it to be. The scope of a revitalised formulation of academic freedom should go beyond the relationship between state and higher education institutions and the defence of academic freedom as a 'right of immunity'. A widely-held view was that academic freedom involves correlative rights and duties and that it extends to the relationship between higher education and society as a whole. It thus needs to be theorised in relation to social responsibility and social engagement as aspects of autonomy exercised accountably by higher education in a democracy.

3.2 The Academy as Custodian of the Future

Higher education has several interrelated purposes which, in the context of contemporary South Africa, must contribute to and support the process of societal transformation and substantive democratisation. There was agreement on the continuous relevance of the objectives for higher education outlined in the White Paper of 1997, which include addressing the knowledge and high-level skills needed for the development of the country, meeting the learning needs and aspirations of individuals through the development of their intellectual abilities and aptitudes, and contributing to the socialisation of enlightened, responsible and critical citizens. Early in the seminar discussions, Dr Frene Ginwala raised the key question, whether and why the academy should be entrusted with these formidable tasks without due steering. Why should there be a special dispensation for higher education, whereby academic freedom and institutional autonomy would effectively serve as principles to remove a professional group performing a public function from the purview of national regulation? Although her question was raised initially in response to Ruth Jonathan's presentation, the notion of trust came to provide a subtext to many of the substantive discussions of the seminar.

Ginwala's question touched the core of the matter of justifying claims to academic freedom and institutional autonomy. There was widespread agreement that the justification of, and case for, academic freedom and institutional autonomy in a transitional democratic society with high levels of inequality was under strain. A range of justifications for academic freedom - from a deontological argument for academic freedom as an *a priori* principle, to a teleological argument which bases the justification of academic freedom on its perceived value for society - was considered in the presentation by Dr Seán Morrow. Morrow referred to the report by Bentley *et al.* where they argued that 'these two alternatives represent the extremes on either end of a continuum, and both are unsatisfactory' and proposed a 'thick' or republican notion of academic freedom which recognises the moral rights associated with academic freedom but couples these with substantive correlative duties based on an earlier paper by André du Toit (Bentley *et a.l,* 2006: 17). Plenary agreed that invoking settler traditions or defending academic freedom as a declared human right alone would not serve the case of the academy. Rather, a case for academic freedom would have to be made by the academy itself.

Ruth Jonathan provided a new framework for thinking about the academy's role and function in contemporary South Africa and the claim to academic freedom and institutional autonomy. Agreeing with the central contention that it was fruitless to assert these concepts as 'rights of immunity', Jonathan's key argument was that academic freedom and institutional autonomy needed to be defended as constitutive democratic duties. In her presentation and report she related this argument to 'a broader conception of accountability as democratic rather than merely

public [which] requires both academic freedom and institutional autonomy (understood as values in which rights and duties inhere) for its responsible discharge' (Jonathan 2006: 76). If the academy did not have sufficient will, expertise, or voice to speak for itself then, indeed, it would deserve to be steered in a dirigiste fashion. Conversely, the more the academy would put its effort into the service of a transforming and democratising society, the more it would gain public support across a wide social constituency and thus be able to defend the particular freedoms which it required to discharge its functions, not as privileges but as tools for the empowerment of the less privileged. Thus, Jonathan conceived of higher education both as an *object of reform* and as an *engine for reform*, implying that the academy would need to inspect itself critically and reposition itself within its broader mandate, and then discharge its empowerment functions in the service of substantive social equality and democratisation. 'Jimi Adesina similarly argued that there was no contradiction between demands for transformation and academic freedom, but in a democratic South Africa the two were closely intertwined. Academic freedom is of no value without the pursuit of transformation; nor can South African society be transformed without academic freedom.

The value of higher education for substantive democratisation went largely unquestioned. In his synthesis of the seminar, Prof Joe Muller provided a basis for this assumption by referring to the significant correlation between support for democracy and higher education gleaned from the Afrobarometer's public opinion surveys in 16 African countries, including South Africa. In the process of providing for the high-level skills and competencies required for economic growth and social development, higher education's formative function involved the development of the critical faculties that were conducive to the entrenchment of the democratic culture envisaged in the South African Constitution. Following Jonathan, he also pointed out that the public good that higher education produced was not only for present benefit. Rather, higher education possessed great value as 'a future good'. Universities, Muller argued, leveraged the future and social goods not recognisable in the present, and it was ruinous to foreclose the future under pressures of populism and short-termism. Hence, 'the community of the competent', who profess the values of higher education, would be in a better position than others to deal with the key questions arising around the provision of these goods. This did not mean that the academy was infallible. Rather, provisions for accountable autonomy and academic freedom, if conceived in the way proposed by Jonathan and others in the seminar, would provide scope for a responsive academy to 'rescue' the public good for the benefit of future generations.

Muller condensed key threats to higher education as a future good as being short-termism and populism – presumably dangers to which the government of the day, and others, might succumb. However, in agreement with many of the seminar debates, Muller specifically pointed to the problematic nature of the market – particularly because the market seeks goods for today and rests uneasy with deferred benefits. A far-sighted government should be able to appreciate not only the immediate output provided through research and teaching but also the substantial long-term benefits of higher education in terms of social equity and substantive democratisation. Government, one participant argued, was certainly a more benign master of the academy than the market. Even the academy itself, as well as other parts of the broader academic community, was at times guilty of acting in contradiction with the core values of higher education – be that by design or neglect. Managerialism, a key topic in the seminar expanded on later in the report, was one of the central ways in which scholarly freedom and academic rule were undermined within the institutions themselves.

3.3 The Accountability of the Academy in a Democratising Society

As 'custodian of the future', higher education incurs a huge responsibility. How can 'the community of the competent' be made accountable to the public in a democratising society? This theme occupied much of the seminar discussion and was explored in various ways.

A first complication was encountered when considering which one out of the many possible futures should be 'chosen'; after all, there was a diversity of imaginable and imagined futures for South African society. Was it enough to assert shared prosperity, greater social equity and an entrenched democratic culture as goals to which higher education should contribute? Did not governments everywhere in the world always have the last word?

Discussions falling under this rubric were particularly fruitful in relation to the presentations by Prof Steven Friedman and André du Toit. Friedman argued that the tensions between academic freedom, institutional autonomy and public accountability could not be resolved by resorting to formulaic prescriptions. Rather, higher education needed to be claimed as a space for democratic deliberation. The academy needed to search for allies both within and beyond the walls of the university. Open-ended, continuous public deliberation, which involves that decision-makers explain and justify a specific course of action, was asserted as a 'soft' form of accountability which should characterise the university's relationship not only with its internal stakeholders but also with the wider public. Friedman focused on a number of 'routes to public accountability' including direct accountability to government, citizen voice and consumer choice (i.e. the market). He outlined how each of these routes to accountability had implications for academic freedom, and that a system of accountable autonomy - which would require 'an approach to accountability which recognises that accounting to society cannot be accounting to government alone' - had 'to ensure that higher education institutions account to society in such a way that teaching and research remain free from controls that could degrade them (including controls imposed by the market)' (Friedman and Edigheji 2006: 20). His conclusion was that the temptation of hatching up any particular formula that would provide some kind of explicit and formal contract between higher education and society should be resisted. A sense of certainty could only be found in the continuous interaction between the academy and society by a variety of means and manners of deliberate, deliberative engagement. Thus, 'ironically… protection from forms of public accountability which [higher education institutions] find irksome lies precisely in acknowledging their need to account, by accepting that they have to persuade society of their usefulness if they want its protection and support' (Friedman and Edigheji 2006: 26).

An important implication of asserting accountability not just as public but as democratic was seen as being that government itself must conduct its business with higher education in an accountable fashion. This would entail government's having to explain itself and justify its behaviour in the public realm; it also implied a duty on government adequately to fund higher education so that it might achieve the desired goals.

Du Toit's tripartite distinction between different constituent elements of academic freedom (based on Graeme Moodie's work) provided a useful framework in which participants debated the question of the accountability of the academy at great depth. At the level of scholarly freedom, accountability was discipline-based, trans-institutional and exclusive to peers. The system of peer review offered a 'thick' version of quality assurance which was indispensable. There was agreement that the work of the Higher Education Quality Committee (HEQC) was a contributing factor (and it was noted that the HEQC itself had established exemplary practices of peer review) but that external quality assurance could not replace accountability to peers within the same discipline. Secondly, academic rule was in place to ensure that the core business

and values of the university remained academic. Academic rule is institution-based and is an important means to temper the various hierarchical relations within the university community. Through collegial rule, managers and academics, deans and faculty, professors and junior academics, staff and students sat together around the same table to deliberate and decide on the core matters affecting the provision of higher education. Institutional autonomy, in turn, could act as a capstone for academic freedom when it was substantive autonomy (serving to protect scholarly freedom and academic rule), or had the potential to undermine the other dimensions of academic freedom when it was merely functional (serving to protect the institutional entity from undesired external influences). Furthermore, autonomy was only one among various ways in which the relationship between higher education institutions and the state could be conceived as the continental European experience shows. There were clearly tensions between institutional autonomy, accountability and academic rule, some of which were raised in relation to the contributions about managerialism (see below). Yet, the traditional institutional autonomy of South African universities was defended by participants in various ways. Some argued that institutional autonomy was the hallmark of a 'proper university'; thus there should be a high and clear threshold for Ministerial intervention which ought to be limited to a temporary period only.

At the heart of the matter, however, is the credibility of the academy. The academy could gain credibility, Seán Morrow argued in his presentation, by ensuring its diversity. Becoming representative in terms of 'race' and gender was an imperative in South African society. Plurality in terms of different ideological orientations was also noted as an important resource. There were various other ways in which the academy could signal commitment to the public good and to diverse publics. Ruth Jonathan, for example, argued in relation to the question: 'what kind of higher education do we want?', that the answer to this question was caught up in the conception of the 'we'. An imagined future of higher education ought to be such that the 'we' might progressively expand. Or as Prof Ahmed Bawa put it, our vision of higher education needs to be part of the imagination of all South Africans. Furthermore, Friedman commented that differential access to expertise could not be the reason why the academy should be free from scrutiny; it would need to take responsibility for its contribution to society to be appreciated. Many agreed that at the heart of the academy's claims to academic freedom was the imperative that the academy itself get its house in order - that the 'competent' ensure their own competency. Hence, the proposal made strongly by Du Toit for the professionalisation of the academy including by means of a rigorous system of professional academic tenure, and Joe Muller's call for a strengthened peer review system, found approving resonance in the seminar.

3.4 Governance as a Symptom of Deeper Problems?

Inextricably linked to the previous two themes arising from the seminar is one which interrogates the nature and extent of difficulties and complexities affecting higher education at various levels of social practice and in relation to different role-players. Aspects of these were considered in the seminar, including under the rubric of examining whether or not a 'crisis' existed in higher education governance or whether contested issues and problems of governance related to other underlying problems. Questions were raised particularly with regard to problems of public confidence in relation to higher education (see Section 3.2), particular 'pathologies of governance' and matters of good governance, but also at a more substantive level of analysis with regard to notions of accountable autonomy and the impacts of governance trends on different dimensions of academic freedom.

The line of analysis that certain developments in the governance of higher education may be symptomatic of deeper problems was initially sparked by the input of Nico Cloete. He argued

that in an environment of distrust and weak accountability systems, governance required the separation of different sets of functions in different structures – something which had been at the core of the governance proposal made by the National Commission on Higher Education (1996). The conflation of important distinctions could potentially cause serious and systemic problems. He cited the case of the CHE, which incorporated advisory, research, consultancy, and monitoring functions as well as the executive function of quality assurance: yet how might the CHE be expected, for example, to advise on what it implemented? Moreover, Cloete argued that the combination of stakeholders and experts on certain bodies (such as the CHE and university Councils) allowed important distinctions – here between essentially different types of representation – to become conflated. It was not only student leaders on Councils who found it difficult to distinguish between the role of a (mandated) stakeholder representative and that of a trustee acting in the institutional interest and for the public good. Bringing into university Councils business leaders who had or who sought business with the university also created conflicts of interest that were inimical to higher education's public mandate. Some seminar participants understood Cloete's examples of pathologies in higher education governance rather as instances of ills inevitably found in wider society. On the one hand, proposals were made for rethinking governance structures at national, sectoral and institutional levels; on the other hand, some proposed that bringing in new groups of people (e.g. churches, NGOs) into higher education governance, especially at university Council and Institutional Forum level, might alleviate some problems and provide for wider participation ultimately building effective governance. Thus all kinds of new and old proposals for good governance were made throughout the seminar. While proposals for good governance were welcomed, some argued that the substance of the conceptual, moral and practical questions raised by the HEIAAF investigation showed that it was necessary to go beyond governance issues and dig deeper.

A different level of analysis was therefore employed by some Task Team members and seminar participants. Referring to Cloete's input, André du Toit noted in the opening remarks of his presentation that calls for more public accountability and specific cases of new accountability systems, such as the establishment of a national quality assurance regime, policy monitoring and evaluation systems, etc., could all be interpreted as symptoms of distrust and evidence of the need for the academy to engage in new ways to justify itself. This, he argued was not just a matter of structures and processes of governance but pointed to an erosion of the implicit social compact between higher education and government. Similarly, Ahmed Bawa's contribution in response to the presentation of the report by Bentley *et al.* challenged the seminar to come to a shared understanding of certain key questions, such as: Is there in fact any general crisis in higher education governance? If so, what is the crisis? If governance lapses were symptomatic, what was the underlying malady? What was the relationship between specific governance crises (i.e. at institutional level), lapses in institutional autonomy, managerialism, and erosion of academic tenure, and, more importantly, how did they relate to questions of academic freedom?

Trends in institutional governance and their implications for academic freedom turned out to be one of the key themes discussed at the seminar. Firstly, discussion was sparked in response to the report of Bentley *et al.* In his presentation, Seán Morrow referred to 'the corporatisation of the university' and the potential threat posed by 'managerialism' to undermine academic rule. There was a potential that institutional autonomy 'empower[s] the institutional bureaucrat to such an extent that the freedom of individual academics could be imperiled' (Bentley *et al.* 2006: 2). This fear was echoed in the contributions of various participants. Yet, it was felt that there was a need to further investigate the notion of the corporatised university, managerialism, and the potential clash between different governance cultures, e.g. managerial vs. collegial culture, within the South African context. Ruth Jonathan's report, in this regard, could have provided some guidance. She argues that 'efficient and effective management of resources – plant,

personnel and time – is essential not only at the top of the institutional hierarchy but at all levels to which decision-making power is delegated. But *management* slides into *managerialism* when managing is confused with leadership and efficiency goals begin to threaten the purposes of the institution and the values and supporting freedoms of academics. At each level of delegated responsibility there is no escaping the tensions between roles that today's twin needs for principled academic leadership and effective resource management create between individuals and indeed within individuals at senior levels. In these matters the freedoms and responsibilities of academics become perhaps their most complex' (Jonathan 2006: 51). A number of suggestions were made on how to shift power from the central university administration back to the faculty. Reasserting the democratic space within the university and academic leadership (centered around a proactive Senate) on the key issues of transformation were among those proposals. (Prof Magda Fourie observed that when the far-reaching transformation programme in higher education left the locus of the former broad transformation fora, it shifted into the basket of senior managements under the oversight of Councils. This could be part of the explanation why a more centralised and bureaucratised system of institutional governance had emerged over the last ten years.) Another suggestion that found support in the seminar was the institution of a professionalised system of academic tenure, since this would provide a counterbalance between the hierarchical authority of managers and the collegial rule of academics. There was general agreement that the university needed to be asserted as a space for democratic deliberation within and beyond its governance arrangements and that the lack of such genuine deliberation might lie at the core of any governance 'crisis'.

3.5 Academic Freedom, Autonomy, Accountability and the Market

The impact of the commodification of higher education and knowledge production on the academy was considered from various angles, albeit not at great length. In many contributions it was acknowledged that it was all too easy for the academy to get caught up in the forces and caprices of the market.

The topic was introduced in the first presentation of the seminar. Ruth Jonathan warned that where social goods were quasi-marketed, the effects were much worse in highly unequal societies. The notion of the market as a threat to the achievement of transformation and substantive democratisation in South Africa held much currency. Mr Ahmed Essop referred to the decline of certain traditional humanities' disciplines in South Africa and argued that protection for these disciplines would probably need to come from outside the academy. In this respect, he argued, the market was likely to present a greater threat to academic freedom than the state. Jonathan responded that she thought the defence of declining disciplines should rather come from collegialism in the academy.

The proposal made in the report of Bentley *et al.*, that the income streams of higher education institutions needed to be diversified by increasing third-stream income (e.g. funds from contract research) was widely debated. The authors argued that 'higher education's financial health can be greatly strengthened by transforming research from an institutional cost to an income stream'. The skills of knowledge workers could be 'deployed in the service of multiple stakeholders' (Bentley *et al.* 2006: 27). Ruth Jonathan argued that there existed the possibility of selectively exploiting the market, so as to increase funding, for example, to cross-subsidise disciplines that were not fashionable at the moment. Magda Fourie warned that in the context of a diverse higher education system where capacities were spread unevenly, an increased reliance on research income would increase inequalities between institutions. Moreover, Joe Muller warned that the

creeping venality of the academy could subvert the noble academic virtues André du Toit had described.

The market's potential as a route to public accountability was considered in some detail in the research report of Friedman and Edigheji but regrettably did not feature greatly as a theme in the presentation or plenary.

3.6 Academic Freedom, Autonomy and Institutional Diversity

A minor, albeit important, theme, which emerged late in the seminar, originated from consideration of differentiation in the higher education landscape. The key question that sparked contributions on this topic was whether academic freedom applied equally across the diversified range of higher education institutions in South Africa.

South African higher education has set itself the goal of becoming a single diverse system. In this regard, recent developments in the higher education system, particularly the mergers of institutions with diverse historical origins and various programme mixes, have been intended to dissolve much of the institutionalised legacy of apartheid in higher education as well as the binary division between technikon-type institutions and universities. Dr Mala Singh listed a number of current fault lines in the system. These were: reasonably well-governed institutions and those that were marred by governance failures; research-focused institutions and others which were predominantly teaching institutions; different modes of delivery and different programme foci in different institutions; and public and private institutions. It was noted that the very fact that it was today possible to openly acknowledge and debate the *de facto* differentiation in higher education represented a large leap forward from the defensiveness that had characterised debate on these matters as recently as six years ago.

Did the maxim 'an injury to one is an injury to all' always apply in the case of academic freedom and institutional autonomy, or did a differentiated landscape involve possibilities for differentiated institutional autonomy and academic freedom on the part of those steering higher education? Ahmed Bawa argued strongly – and found strong support from participants for this idea - that academic freedom was essential for knowledge production and hence essential to higher education institutions' role as social institutions with a public good function. Yet, in response to this claim for the requirements of knowledge production, Mala Singh asked whether institutions that are largely teaching institutions were then entitled to claim academic freedom? Was the argument that all higher educations are entitled to academic freedom because they produce graduates that can engage in public debate? Or is it only research universities that have a claim to academic freedom? Prof Jan Botha asked whether a claim to self-regulation might to be based on a notion of 'earned autonomy' similar to the 'self-accreditation status' that could be an outcome of a successful HEQC audit? Prof Barney Pityana's sense was that if a principle such as academic freedom was to have durable effect, it would have to be able to take account of the diversity within its range of applicability.

3.7 Academic Freedom and Freedom of Expression

In his presentation, Seán Morrow referred to the case of Xolela Mangcu's departure from the Human Sciences Research Council, Ashwin Desai's troubles with the University of KwaZulu-Natal, as well as earlier cases of apparent violations of academic freedom either by institutional managers or through government's involvement in academic and research institutions. This

elicited a number of contributions and questions about the relationship between academic freedom and freedom of expression. It was noted that the South African Constitution provides for academic freedom and the freedom of scientific research in the section on the freedom of expression. Yet, in what ways were they similar and in what ways different?

On the one hand, André du Toit commented that it was important not to conflate academic freedom with freedom of expression, or intellectual freedom – they were very different in concept and practice. Academic freedom was not just freedom of expression in the context of the university. Rather, he argued that academic freedom may under certain circumstances put bounds on the freedom of expression (e.g. in the classroom). On the other hand, 'Jimi Adesina argued that it was not possible to detach academic freedom from the general freedom of expression. In his view, while there may exist two different claims, academic freedom cannot be defended without the general right to freedom of expression. Adesina's key point was that the academy must realise it cannot claim for itself, or seek to defend, academic freedom without also defending the free speech rights of everyone else in society.

With reference to the specific cases mentioned by Morrow, and with regard to Du Toit's notion of an internal social compact, Ms Jane Duncan mentioned that it appeared that academics were unaware of developments in labour law and the rights of employees to criticise employers. She asked whether academics would not perhaps be in a better position under the application of the labour law, than in a specifically negotiated compact for tenure? Du Toit, in contrast, warned about possible implications of managerialism for the free speech rights of academics. He noted that in a very general sense, the managerial turn involved thinking about the university along the lines of a business firm and this included a conception of academics as employees. In many firms the relationship between employee and employer might involve confidentiality agreements, or restrictions on free speech. In higher education institutions, where academics come into conflict with management and are not allowed to speak out, this would be compatible with a model of the university as a firm; but it would fall away where a university is not seen as a firm.

The question of the relationship between academic freedom and freedom of expression came up in a different way in relation to students. Mr Na'eem Jeenah commented that it was important to debate the issue around the freedom of expression of students and student organisations. He noted that there were increasing obstacles being put in the way of these fundamental student rights. Mr Thierry Luescher was concerned that throughout the seminar the question of the academic freedom of students had not been debated. The freedom of learning (*Lernfreiheit*), he argued, was the corollary to the freedom of teaching (*Lehrfreiheit*). It went beyond merely the freedom to receive information but included aspects of academic rule (i.e. co-determination of the conditions of learning), freedom of access to higher education, freedom of mobility between institutions and programmes, and so forth.

3.8 A Compact for Academic Freedom and Autonomy

The last session of the seminar (André du Toit/Deborah Posel) specifically explored the feasibility of a social compact approach for re-forging a shared understanding of academic freedom, institutional autonomy and accountability in contemporary South Africa; however, the theme had come up throughout the seminar in different ways, including in Steven Friedman's discussion of the need for continuous engagement between higher education and society.

There was no hard-and-fast definition of 'social compact' on hand at the seminar and accordingly, there was some discussion in the plenary as to whether a social compact was

essentially rule-based or normative. The latter understanding was how most participants responded to the idea. From the presentation and research report, however, it was clear that Du Toit referred variously to both explicit and implicit compacts, formal and informal ones, which involve a number of relevant parties to agree on the terms, scope and objectives of academic freedom and institutional autonomy (Du Toit 2007: 40). His research and presentation noted various cases of social compacts in higher education obtaining at different times and in different contexts. Scholarly freedom, he argued, can be seen as an internal pact of scholarly peers. Academic rule is also an internal pact between the professoriate (broadly speaking) and the university leadership and management. In this respect he noted the specific case of an explicit compact between the American professoriate (organised as the American Association of University Professors) and representatives of American university administrations (organised in the Association of American Colleges). Thirdly, arrangements with respect to institutional autonomy might be seen as representing an external pact between the universities and the state (or the governing elite).

As far as a compact for institutional autonomy is concerned, some contributions questioned the desirability of an explicit, negotiated, mutual agreement. The discussant of the session, Deborah Posel, perceived a slip in Du Toit's argument from the historical to the prescriptive and expressed some unease about the possible implications of a negotiated compact. She warned that to abandon matters of principle, to lose the historical mooring of concepts, and to allow academic freedom, institutional autonomy and accountability to be what the parties of a social compact say they are in the 'here and now', might produce quite unexpected outcomes. Steven Friedman argued against any explicit formal agreement because, as he put it, this had the potential to freeze a relationship (between higher education and society) which ought to be dynamic and open to continuous public deliberation and political contest. Rather, deliberation on academic freedom, institutional autonomy and accountability in higher education ought to aim at developing a series of understandings that were fluid and empowered diverse constituencies to participate in discussions around the steering of higher education. Questions were also raised as to the mechanisms that would be used to negotiate any compact for academic freedom and institutional autonomy: Who would be involved? Was there a need for new structures and fora? Or was there a need to revitalise existing institutional fora or to revisit the National Commission on Higher Education's proposals for a sector-wide Higher Education Forum? In any event, the seminar concluded with general agreement that academic freedom needed to be appropriately formulated and upheld as a necessary condition for South African higher education to produce the social goods required for transformation and sustainable democratisation.

Appendix: Attendance Register

	Monday 16 April 2007	Tuesday 17 April 2007
Dr Khotso Mokhele (Task Team)		
Dr Saleem Badat (Task Team)		Apology
Dr Mala Singh (Task Team)		
Prof Steven Friedman (Task Team/Presenter)		
Dr Frene Ginwala (Task Team)		
Prof Loyiso Nongxa (Task Team)		
Prof Peter Vale (Task Team)		
Prof Hugh Africa		
Prof 'Jimi Adesina (Discussant)		Apology
Prof Yunus Ballim		Apology
Prof Ahmed Bawa (Discussant)		
Prof Jan Botha		
Prof Nithaya Chetty		
Dr Nico Cloete (Discussant)		
Dr Felicity Couglan		
Mr Ahmed Essop		
Prof Michael Cross		
Ms Jane Duncan		
Prof André du Toit (Presenter)		
Ms Judy Favish		Apology
Prof Frederick Fourie		
Prof Magda Fourie		
Ms Hanlie Griesel		
Prof Johann Groenewald		
Prof Martin Hall	Apology	Apology
Ms Suraya Jawoodeen		Apology
Prof John Higgins	Apology	Apology
Mr Na'eem Jeenah		
Dr André Keet	Apology	
Prof Ruth Jonathan (Presenter)		
Mr Saki Macozoma	Apology	Apology
Prof Duma Malaza		
Prof Antony Melck		Apology
Dr Sean Morrow (Presenter)		
Mr Enver Motala		
Prof Joe Muller (Special Commentator)		
Dr Ben Parker		
Prof Barney Pityana		
Prof Deborah Posel (Discussant)	Apology	
Dr Molapo Qhobela		
Dr Ihron Rensburg		Apology
Prof Sipho Seepe		
Prof Chika Sehoole		
Dr Paul Steyn		
Prof Rolf Stumpf		Apology
Prof Derrick Swartz	Apology	Apology
Ms Carol Clarke (Secretariat)		
Ms Ashley Symes (Consultant)		
Mr Thierry Luescher (Consultant)		